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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,842	11/24/2003	David Alan Oshinsky	4982/13A	3613
29858	7590	04/10/2006	EXAMINER	
BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP			ALAM, SHAHID AL	
900 THIRD AVENUE			ART UNIT	
NEW YORK, NY 10022			PAPER NUMBER	
			2162	

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/720,842	Applicant(s) OSHINSKY ET AL.	
	Examiner Shahid Al Alam	Art Unit 2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on January 20, 2006 have been fully considered but they are not persuasive for the following reasons.
2. Applicants' argue that Mutalik does not teach claimed limitation as previously claimed and also does not in view of the amendments.

Mutalik's teaches of a file management system for backing up data stored on a mass storage subsystem in response to file management commands. The mass storage subsystem stores data on at least one storage device, said storage device including a series of blocks. The file management system comprises an operating system-independent file map, a file management command receiver module, and a file management command execution module. The operating system-independent file map stores information identifying, for each file, block information identifying blocks on which the file is stored. The file management command receiver module receives a file management command. The file management command execution module executes the file management command in relation to the operating system-independent file map. Mutalik's teachings anticipate applicant's claimed limitation.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant amended limitation "a browsing application program" as recited in claims 1, 5 and 6. However, these limitations do not have any support through out specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "a browsing application program" renders the claim indefinite because it is unclear as to the meaning of the claimed language.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 11 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,161,111 issued to Madhav Mutalik et al. ("Mutalik").

With respect to claim 1, Mutalik teaches a data retrieval system comprising:

a first computing device (host) communicatively coupled to a second computing device (server) (see Figure 1; column 3, lines 18 – 22);

the first computing device having a processor that supports operation of at least one software application that is used for retrieving data (see abstract; column 2, lines 47 – 54; column 3, lines 15 – 27, 40 – 42; column 4, lines 40 – 49 and column 9, lines 33 – 45);

the second computing device communicatively coupled to one or more storage media (column 4, lines 1 – 5 and column 5, lines 31 – 65);

the software application having a retrieval module for retrieving data from the one or more storage media (column 9, lines 33 – 67) and an application program configured to display information relating to data to be retrieved (see Figure 1: Figure 1 teaches a computer system which capable of displaying data or view).

a storage and backup map that maps to the second computing device (column 8, lines 50 – 63); and

a data index stored on the second computing device that indicates to the retrieval module a particular location of the data that is to be retrieved by the retrieval module (column 8, lines 50 – column 9, line 10 and lines 33 – 67 and column 13, lines 1 – 19).

As to claims 2, 3 and 4, the software application interoperates with an interface module, with a backup retrieval module and a file system program (see Figure 1 & 5A).

As to claims 5 and 6, the browsing application program is dynamic and changes to reflect information regarding data to be retrieved, may be modified to display information regarding data to be retrieved specified by a user (see Figure 1 & 5A).

As to claims 7, 8 and 9, a user may interact with browsing application program to request specific information regarding data to be retrieved, search for specific information regarding data to be retrieved and define a temporal range that specifies certain data to be retrieved (see Figure 1 & 5A).

As to claim 10, the browsing application program is on MS Window program (see Figure 1 & 5A).

As to claim 11, the MS Window program is Window Explorer (see Figure 1 & 5A).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Al Alam whose telephone number is (571) 272-4030. The examiner can normally be reached on Monday-Thursday 8:00 A.M.- 4:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Shahid Al Alam
Primary Examiner
Art Unit 2162

April 2, 2006